



**Department of Veterans Affairs
Office of Inspector General**

**Memorandum to the File
Case Closure**

Alleged Prohibited Personnel Practices
and Preferential Treatment
Chief Business Office, Purchased Care, Denver, Colorado
(2014-00730-IQ-0010)

The VA OIG Administrative Investigations Division investigated allegations that past and present members of (b) (7)(C) leadership within the (b) (7)(C) (b) (7)(C) engaged in prohibited personnel practices and preferential treatment. Ms. (b) (7)(C) former (retired) (b) (7)(C), allegedly circumvented merit system principles and appointed Ms. (b) (7)(C) the then (b) (7)(C) (b) (7)(C), to the newly created (b) (7)(C) position in November 2011. Ms. (b) (7)(C) allegedly then used "skewed" rating and ranking panel scores to hire her close friend, a former (b) (7)(C) coworker, Ms. (b) (7)(C) into the (b) (7)(C) position. Ms. (b) (7)(C) also allegedly influenced Mr. (b) (7)(C) promotion to a GS-15 (b) (7)(C) position within the Office of Information & Technology (OIT), to allow him influence over contract outcomes favorable to (b) (7)(C) and Ms. (b) (7)(C). To assess these allegations, we reviewed email, human resources (HR) recruitment, and personnel records. We also interviewed VA employees and reviewed applicable Federal laws and regulations. Ms. (b) (7)(C) declined our request for an interview. The allegation that Mr. (b) (7)(C) influenced contract outcomes favorable to Ms. (b) (7)(C) and (b) (7)(C) was referred to the OIG Criminal Investigations Division and will not be addressed further in this memorandum. We substantiated other allegations, and they will not be discussed further in this memorandum.

Federal law states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority-grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment for the purpose of improving or injuring the prospects of any particular person for employment. 5 USC § 2302 b(6). Federal regulations state that an agency may: reassign a career or career-conditional employee, and agencies may at their discretion except, from competitive procedures, reassignment or transfer to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service, and did not lose because of performance or conduct reasons. 5 CFR §§ 335.102(a) and 335.103(c)(2)(3)(v).

Alleged Improper Selection of Ms. (b) (7)(C)

A January 20, 2011, email reflected that Ms. (b) (7)(C) first foray into (b) (7)(C) leadership was when she asked Ms. (b) (7)(C) to reassign her from the VHA Office of Health Information to a position into which she was later appointed, (b) (7)(C)

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(b) (7)(C) under Ms. (b) (7)(C) supervision. A subsequent email exchange the same day between Ms. (b) (7)(C) and her HR manager reflected genuine curiosity on Ms. (b) (7)(C) behalf about Ms. (b) (7)(C) job qualifications. In the email Ms. (b) (7)(C) wrote, "I would like to verify she is qualified. I...can't imagine she isn't, given her experience." This was not the reaction from someone who allegedly had a close personal relationship with Ms. (b) (7)(C) and who allegedly hired her due to a friendship.

Personnel records reflected that the (b) (7)(C) position was announced in September 2011 and that Ms. (b) (7)(C) submitted her resume and supporting material. She was non-competitively selected on November 4, 2011, and transferred from one GS-15 (b) (7)(C) position to another. A senior HR official submitted an Intra-Agency Transfer Request on November 14, 2011, identifying Ms. (b) (7)(C) as (b) (7)(C) selectee. Ms. (b) (7)(C) personnel records reflected that she was presently the (b) (7)(C) and physically assigned to VA Central Office (VACO). We found no evidence linking Ms. (b) (7)(C) in any of her VA positions to Ms. (b) (7)(C) or any evidence that established they were closely connected enough to reasonably question Ms. (b) (7)(C) independence in selecting Ms. (b) (7)(C) for either the (b) (7)(C) or (b) (7)(C) position.

In reference to the allegation that PC leadership influenced Ms. (b) (7)(C) to hire Ms. (b) (7)(C) and to ignore the (b) (7)(C) certificate of eligibles, which allegedly contained more qualified candidates than Ms. (b) (7)(C) we found that Ms. (b) (7)(C) followed proper hiring protocol and ranking panel recommendations prior to selecting Ms. (b) (7)(C). For example, Ms. (b) (7)(C) announced the (b) (7)(C) position in September 2011, resulting in 11 applications and a certificate of eligibles containing three names. She offered the position to one of the candidates, who declined the offer, due to the position being located in Denver, CO. Personnel records reflected that the candidate instead accepted a (b) (7)(C) position located in Topeka, KS. The original selected candidate told us of a planned (b) (7)(C) consolidation to Denver and that working there did not fit his "career path goals." He said that he instead accepted a position in Topeka where he started his VA career. Ms. (b) (7)(C) then asked for the non-competitive certificate, and it listed Ms. (b) (7)(C) as the best qualified candidate, and Ms. (b) (7)(C) then selected her, whose resume reflected a long-standing VA career with proven technical leadership, ambitious and highly-skilled approach to her assignments. Federal regulations, 5 CFR § 335.102, allowed for a management directed reassignment at the agency's discretion. We found no long-term relationship between (b) (7)(C) leadership and Ms. (b) (7)(C) as a motivating factor. Personnel records reflected no prior proximate working or personal relationship between her and Ms. (b) (7)(C).

Alleged Improper Selection of Ms. (b) (7)(C)

Review of recruitment documents reflected a thorough process and responsibilities diversified among various HR personnel. The GS-15 (b) (7)(C) position, announcement #PCEL-11-565283, was listed on USAJobs November 17–23, 2011. Ms. (b) (7)(C) allegedly hired loyal staff members to ensure continued facilitation of a scheme favoring certain contractors and that she hired Ms. (b) (7)(C) to perpetuate the scheme. She also allegedly padded the (b) (7)(C) application review panel with a "jazzercise" (7)

friend who skewed the results to ensure Ms. (b) (7)(C) selection. Ms. (b) (7)(C) was alleged a long-term friend, and Ms. (b) (7)(C) daughter's supervisor.

Personnel records reflected that Ms. (b) (7)(C) began working for VA in (b) (7)(C) as a GS-(b) (7)(C) and advanced through a series of clerical and administrative positions through the years. Records further reflected Ms. (b) (7)(C) employment history, from her September (b) (7)(C) appointment at Iowa City VA Health Care System and her GS-(b) (7)(C), (b) (7)(C), promotion in (b) (7)(C), a position she held until (b) (7)(C). A November 2005 performance evaluation identified her as (b) (7)(C) at Iowa City VA Health Care System, and numerous personnel forms reflected awards of cash and retention incentives until her (b) (7)(C) selection in (b) (7)(C).

Personnel and email records contained no evidence of Ms. (b) (7)(C) and Ms. (b) (7)(C) having a close personal friendship or extraordinary work association, although records reflected that they both worked at Iowa City VA Health Care System. Records also reflected that Ms. (b) (7)(C) supervised Ms. (b) (7)(C) only after she (Ms. (b) (7)(C) became the (b) (7)(C) and Ms. (b) (7)(C) rated her performance in May 2012. A review of Ms. (b) (7)(C) (b) (7)(C) personnel records reflected that she never worked for Ms. (b) (7)(C) disproving the allegation that Ms. (b) (7)(C) supervised Ms. (b) (7)(C). Ms. (b) (7)(C) personnel records provided no evidence that she had a (b) (7)(C) but rather showed she had a (b) (7)(C). Ms. (b) (7)(C) told us that Ms. (b) (7)(C) (b) (7)(C) served as (b) (7)(C) at the medical center with responsibilities of oversight for out of office email for executives, including Ms. (b) (7)(C). Ms. (b) (7)(C) said that Ms. (b) (7)(C) (b) (7)(C) name would have shown up on her email out of office replies even after she (Ms. (b) (7)(C) became the (b) (7)(C) but that issue was resolved when Ms. (b) (7)(C) (b) (7)(C) told Ms. (b) (7)(C) of the matter.

A review of the (b) (7)(C) hiring package used to select Ms. (b) (7)(C) revealed 34 applicants, a fully developed set of rating benchmarks, and a merit referral certificate containing the names of 9 certified eligible candidates. The package also held detailed job analysis worksheets and a December 13, 2011, Equal Employment Opportunity (EEO) interview panel vetting and confirmation memo, which stated that proposed panel members represented diversity, fairness, and objectivity necessary to comply with merit system hiring principles. Hiring documents also contained panel members' notes, rankings, and interview scores for each candidate. One panel member told us that he did not select Ms. (b) (7)(C) as best qualified, but the panel sent forward the three top candidates and suggested that the selecting official may have rated them differently during the final interviews, selecting the overall best fit for the position.

The complainant said that one of the panel members said that the panel findings were "skewed," as a third panelist weighted the findings in Ms. (b) (7)(C) favor. Our review of the hiring panel documents and results not only reflected a fair process, but, showed that the panel member who alleged others skewed the process informed the selecting official, Ms. (b) (7)(C) of his lost interview notes precluding their submission,

after Ms. (b) (7)(C) requested them repeatedly in a January 17, 2012 email. Additionally, when we compared ratings among panel members, we found the member who alleged others skewed the scores actually posted an arbitrarily low score. The panelist rated her 5 points lower than another panel member and 3.5 lower than the other member. The members who rated Ms. (b) (7)(C) higher were only 1.5 points apart from one another, and all three, to include the member who alleged a skewed panel, scored Ms. (b) (7)(C) the highest at 130 total points, higher even than candidates the complainant believed more qualified than Ms. (b) (7)(C). One applicant told us that although he believed he was best qualified, Ms. (b) (7)(C) was a better fit with the leadership team, and he believed the selecting official chose the best person for the position.

Mr. (b) (7)(C) GS-15 OIT Promotion

Recruitment records reflected a rigorous and thorough hiring process. For example, the acting (b) (7)(C), certified the positions were accurately classified and necessary to carry out Government functions at VA on April 12, 2011. Records also reflected that on November 7, 2012, the (b) (7)(C), approved the full time equivalency (FTE) and funding for (4) (b) (7)(C) positions. A November 21, 2012, (b) (7)(C) recruitment request form established the need to recruit 4 (b) (7)(C) within the (b) (7)(C). The selecting official, Mr. (b) (7)(C), completed a job analysis summary for the (b) (7)(C) on December 17, 2012, in which he provided the full complement of qualifications, knowledge, skills, and abilities and related duties of the position. Records also reflected a USA Staffing website benchmark report showing the competency factor questions. The selecting official completed a statement of duties on December 13, 2012, to accompany the job analysis summary, and on January 10, 2013, under announcement number (b) (7)(C), posted 4 vacancies on USAJobs, open until January 30, 2013.

Personnel records reflected that Mr. (b) (7) submitted his application for the position on January 30, 2013, the last open day for the announcement. On February 7, he received a notice that his resume was sent to the selecting official for consideration. On June 10, he submitted his optional form (OF) 306, Declaration of Federal Employment, and a standard form (SF) 50 reflected that his promotion was effective June 30. A review of the OIT Lead IT Program Manager hiring package and email communications revealed no evidence that Ms. (b) (7)(C) or anyone from PC preselected Mr. (b) (7) or advocated on his behalf for that position.

Conclusion

Through a preponderance of the evidence, we did not substantiate the allegations of prohibited personnel practices or preferential treatment in hiring related to Ms. (b) (7)(C)'s GS 15 (b) (7)(C) selection, Ms. (b) (7)(C) (b) (7)(C) selection, or Ms. (b) (7)(C) had any influence concerning Mr. (b) (7)(C) promotion. We therefore are closing these allegations without issuing a formal report or memorandum.

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(b) (7)(C)

Prepared By:

Date

1/20/2015

Approved:

Date

1/20/2015